

## Washington, Audrey

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**From:** Asher, Chance (ECY) <CASH461@ECY.WA.GOV>  
**Sent:** Thursday, January 27, 2011 11:56 AM  
**Subject:** RE: Reminder  
**Attachments:** SMS Regulatory Dilemma.docx

Matt,

Thank you for the feedback. You are correct with your expectations, this meeting is intended to be a follow up on our January 12 discussion. We would like to continue to explore the options we proposed in the attachment, page 2.

We would like to further explore Track #2 (in the attachment) regarding creating a state-only provision and hear about any discussions all of us may have had with our respective agencies since our last meeting.

We can then touch on some of the other big issues Cheryl has identified and set up a process and time for further discussion.

See you on Monday.

-----Original Message-----

From: Szelag.Matthew@epamail.epa.gov [mailto:Szelag.Matthew@epamail.epa.gov]  
Sent: Thursday, January 27, 2011 10:12 AM  
To: Niemi, Cheryl (ECY)  
Cc: Asher, Chance (ECY); Bradley, Dave (ECY); Gildersleeve, Melissa (ECY)  
Subject: RE: Reminder

Hi Chance,

I'm available to attend the meetings from 10-1 on Monday and will attend in person. I think Cheryl brings up some good and tough questions for further discussion.

In order to set expectations for the afternoon session, I want to be clear that I expect it will be a continuation of discussions we had on January 12 and an exploration of options. I don't think EPA is ready to take positions on some of the tougher questions at this time as we are just stepping into this work and we can certainly discuss timeframes around these. What would be most helpful is for the two programs at Ecology to work together, explore specifics and come back to EPA with their preliminary proposals and thinking relative to how to proceed. I think doing this work before we can provide a solid assessment is essential but we are happy to brainstorm some ideas with you at this time.

Thanks,

Matthew Szelag  
US EPA Region 10  
1200 Sixth Ave, Suite 900  
Seattle, WA 98101  
Phone: 206-553-5171

From: "Niemi, Cheryl (ECY)" <cnie461@ECY.WA.GOV>  
To: "Asher, Chance (ECY)" <CASH461@ECY.WA.GOV>  
Cc: "Bradley, Dave (ECY)" <dbra461@ECY.WA.GOV>, "Gildersleeve, Melissa (ECY)" <MGIL461@ECY.WA.GOV>, Matthew

Szelag/R10/USEPA/US@EPA  
Date: 01/26/2011 02:21 PM  
Subject: RE: Reminder

Thanks Chance.

I'd like to attend both meetings by conference line. If time allows, I'd like us to discuss, during the 12-1 timeframe, how we can work with EPA to get clarification on the following issues (most of which were discussed or alluded to during the Jan. 12 conference call), and potential timeframes associated with that work. These are a mix of both CWA issues and discussion of how Ecology would implement...:

- Approaches to putting a FCR into the sediment management standards (SMS) that would not need CWA approval (guidance value approach such as Matt suggested)
- How that FCR could be used without tripping CWA requirements.  
Could it be used for sediments without being an interpretation of the narrative sediment human health criterion in the SMS?
- If we can't use it without tripping CWA requirements, then how to resolve the differences between the 30-year duration of exposure in the MTCA equation and the 70-year duration of exposure in the water quality criteria equation. Need to determine whether the designated uses that are fully protected by the current water quality criteria (using 70 year duration of exposure) would also be fully protected using an duration of exposure of 30 years. Would Ecology need to calculate sediment criteria based on 70 years and apply them to the site for CWA purposes? What equation would we use for that, and if we do not have an equation in the SMS maybe this is not an issue at all???
- If we somehow must calculate sediment criteria, can anthropogenically influenced background ambient concentrations be used to replace the sediment criteria in 303(d) listed waterbodies for purposes of TMDLs? I am thinking that if we have CWA sediment criteria we will be listing waterbodies based on those criteria, and TMDL targets are based on criteria, not on ambient background levels (unless those background levels fit the definition of "natural conditions or natural background levels" contained in the Washington water quality standards). Let's talk about this. Will be an extremely big issue with stakeholders if we need to use CWA sediment criteria values in these situations.
- Other topics besides fish consumption rates will be looked at in the SMS rule revision. Let's just quickly go through them and discuss how we can expedite working with EPA to find ways to determine whether the changes appear to be CWA related.

Please send me call-in information.

Thanks,

Cheryl

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Cheryl A. Niemi  
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From: Asher, Chance (ECY)  
Sent: Wednesday, January 26, 2011 1:18 PM  
To: Szelag.Matthew@epamail.epa.gov; Niemi, Cheryl (ECY)  
Cc: Bradley, Dave (ECY)  
Subject: Reminder

Matt and Cheryl,

Just wanted to remind you of the two meetings we had discussed at the end of our January 12 meeting. They are scheduled for Monday, January 31 at EPA's Seattle office, Room 12B (12th floor conference room).

The first meeting is from 10 AM – Noon with EPA cleanup staff where we will present the issues we are working through and the direction we are considering regarding the Sediment Management Standards rule revisions. This is an opportunity to get more EPA staff up to speed on our deliberations regarding the rule revisions. We would welcome your attendance if you can fit it into your schedules.

The second meeting is from Noon – 1 PM (in the same room). We had discussed that this would be a good opportunity to follow up on our January 12 discussion regarding the SMS rule revisions and CWA issues. If attendance in person is difficult, I am sure we could have folks set up a phone for us.

Would you please let me know if this schedule works for you and if there are any pressing issues outside of the ones identified on January 12 that you would like to discuss.

Chance Asher

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